

§ 253.51

30 CFR Ch. II (7–1–03 Edition)

part, we may not accept it. If we do not accept your OSFR evidence, then we will send you a written notification stating:

- (1) That your evidence is not acceptable;
- (2) Why your evidence is unacceptable; and
- (3) The amount of time you are allowed to submit acceptable evidence without being subject to civil penalty under § 253.51.

(b) MMS may immediately and without prior notice invalidate your OSFR demonstration if you:

- (1) Are no longer eligible to be the designated applicant for a COF included in your demonstration; or
- (2) Permit the cancellation or termination of the insurance policy, surety bond, or indemnity upon which the continued validity of the demonstration is based.

(c) If MMS determines you are not complying with the requirements of this part for any reason other than paragraph (b) of this section, we will notify you of our intent to invalidate your OSFR demonstration and specify the corrective action needed. Unless you take the corrective action MMS specifies within 15 calendar days from the date you receive such a notice, we will invalidate your OSFR demonstration.

§ 253.51 What are the penalties for not complying with this part?

(a) If you fail to comply with the financial responsibility requirements of OPA at 33 U.S.C. 2716 or with the requirements of this part, then you may be liable for a civil penalty of up to \$25,000 per COF per day of violation (that is, each day a COF is operated without acceptable evidence of OSFR).

(b) MMS will determine the date of a noncompliance. MMS will assess penalties in accordance with an OSFR penalty schedule using the procedures found at 30 CFR part 250, subpart N. You may obtain a copy of the penalty schedule from MMS at the address in § 253.45.

(c) MMS may assess a civil penalty against you that is greater or less than the amount in the penalty schedule after taking into account the factors in section 4303(a) of OPA (33 U.S.C. 2716a).

(d) If you fail to correct a deficiency in the OSFR evidence for a COF, then the Director may suspend operation of a COF in the OCS under 30 CFR 250.170 or seek judicial relief, including an order suspending the operation of any COF.

[63 FR 42711, Aug. 11, 1998, as amended at 64 FR 72794, Dec. 28, 1999]

Subpart F—Claims for Oil-Spill Removal Costs and Damages

§ 253.60 To whom may I present a claim?

(a) If you are a claimant, you must present your claim first to the designated applicant for the COF that is the source of the incident resulting in your claim. If, however, the designated applicant has filed a petition for bankruptcy under 11 U.S.C. chapter 7 or 11, you may present your claim first to any of the designated applicant's guarantors.

(b) If the claim you present to the designated applicant or guarantor is denied or not paid within 90 days after you first present it or advertising begins, whichever is later, then you may seek any of the following remedies that apply:

If the reason for denial or non-payment is	then you may elect to
(1) <i>Not</i> an assertion of insolvency or petition in bankruptcy under 11 U.S.C. chapter 7 or 11.	(i) Present your claim to any of the responsible parties for the COF; or (ii) Initiate a lawsuit against the designated applicant and/or any of the responsible parties for the COF; or (iii) Present your claim to the Fund using the procedures at 33 CFR part 136.
(2) An assertion of insolvency or petition in bankruptcy under 11 U.S.C. chapter 7 or 11.	(i) Pursue any of the remedies in items (1)(i) through (iii) of this table; or (ii) Present your claim to any of the designated applicant's guarantors; or (iii) Initiate a lawsuit against any of the designated applicant's guarantors.

(c) If no one has resolved your claim to your satisfaction using the remedy that you elected under paragraph (b) of this section, then you may pursue another available remedy, unless the Fund has denied your claim or a court of competent jurisdiction has ruled against your claim. You may not pursue more than one remedy at a time.

(d) You may ask MMS to assist you in determining whether a guarantor may be liable for your claim. Send your request for assistance to the address listed in §253.45. You must include any information you have regarding the existence or identity of possible guarantors.

§ 253.61 When is a guarantor subject to direct action for claims?

(a) If you are a guarantor, then you are subject to direct action for any claim asserted by:

(1) The United States for any compensation paid by the Fund under OPA, including compensation claim processing costs; and

(2) A claimant other than the United States if the designated applicant has:

(i) Denied or failed to pay a claim because of being insolvent; or

(ii) Filed a petition in bankruptcy under 11 U.S.C. chapters 7 or 11.

(b) If you participate in an insurance guaranty for a COF incident (i.e., oil-spill discharge or substantial threat of the discharge of oil) that is subject to claims under this part, then your maximum, aggregate liability for those claims is equal to your quota share of the insurance guaranty.

§ 253.62 What are the designated applicant's notification obligations regarding a claim?

If you are a designated applicant, and you receive a claim for removal costs and damages, then within 15 calendar days of receipt of a claim you must notify:

(a) Your guarantors; and

(b) The responsible parties for whom you are acting as the designated applicant.

APPENDIX TO PART 253—LIST OF U.S. GEOLOGICAL SURVEY TOPOGRAPHIC MAPS

Alabama (1:24,000 scale): Bellefontaine; Bon Secour Bay; Bridgehead; Coden; Daphne; Fort Morgan; Fort Morgan NW; Grand Bay; Grand Bay SW; Gulf Shores; Heron Bay; Hollingers Island; Isle Aux Herbes; Kreole; Lillian; Little Dauphin Island; Little Point Clear; Magnolia Springs; Mobile; Orange Beach; Perdido Beach; Petit Bois Island; Petit Bois Pass; Pine Beach; Point Clear; Saint Andrews Bay; West Pensacola.

Alaska (1:63,360 scale): Afognak (A-1, A-2, A-3, A-4, A-5, A-0&B-0, B-1, B-2, B-3, C-1&2, C-2&3, C-5, C-6, D-1, D-4, D-5); Anchorage (A-1, A-2, A-3, A-4, A-8, B-7, B-8); Barrow (A-1, A-2, A-3, A-4, A-5, B-3, B-4); Baird Mts. (A-6); Barter Island (A-3, A-4, A-5); Beechy Point (A-1, A-2, B-1, B-2, B-3, B-4, B-5, C-4, C-5); Bering Glacier (A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8); Black (A-1, A-2, B-1, C-1); Blying Sound (C-7, C-8, D-1&2, D-3, D-4, D-5, D-6, D-7, D-8); Candle (D-6); Cordova (A-1, A-2, A-3, A-4, A-7&8, B-2, B-3, B-4, B-5, B-6, B-7, B-8, C-5, C-6, C-7, C-8, D-6, D-7, D-8); De Long Mts. (D-4, D-5); Demarcation Point (C-1, C-2, D-2, D-3); Flaxman Island (A-1, A-3, A-4, A-5, B-5); Harrison Bay (B-1, B-2, B-3, B-4, C-1, C-3, C-4, C-5, D-4, D-5); Icy Bay (D1, D-2&3); Iliamna (A-2, A-3, A-4, B-2, B-3, C-1, C-2, D-1); Karluk (A-1, A-2, B-2, B-3, C-1, C-2, C-4&5, C-6); Kenai (A-4, A-5, A-7, A-8, B-4, B-6, B-7, B-8, C-4, C-5, C-6, C-7, D-1, D-2, D-3, D-4, D-5); Kodiak (A-3, A-4, A-5, A-6, B-1&2, B-3, B-4, B-6, C-1, C-2, C-3, C-5, C-6, D-1, D-2, D-3, D-4, D-5, D-6); Kotzebue (A-1, A-2, A-3, A-4, B-4, B-6, C-1, C-4, C-5, C-6, D-1, D-2); Kwiguk (C-6, D-6); Meade River (D-1, D-3, D-4, D-5); Middleton Island (B-7, D-1&2); Mt. Katmai (A-1, A-2, A-3, B-1); Mt. Michelson (D-1, D-2, D-3); Mt. St. Elias (A-5); Noatak (A-1, A-2, A-3, A-4, B-4, C-4, C-5, D-6, D-7); Nome (B-1, C-1, C-2, C-3, D-3, D-4, D-7); Norton Bay (A-4, B-4, B-5, B-6, C-4, C-5, C-6, D-4, D-5, D-6); Point Hope (A-1, A-2, B-2, B-3, C-2, C-3, D-1, D-2); Point Lay (A-3&4, B-2&3, C-2, D-1, D-2); Selawik (A-5, A-6, B-5, B-6, C-5, C-6, D-6); Seldovia (A-3, A-4, A-5, A-6, B-1, B-2, B-3, B-4, B-5, B-6, C-1, C-2, C-3, C-4, C-5, D-1, D-3, D-4, D-5, D-8); Seward (A-1, A-2, A-3, A-4, A-5, A-6, A-7, B-1, B-2, B-3, B-4, B-5, C-1, C-2, C-3, C-4, C-5, D-1, D-2, D-3, D-4, D-5, D-6, D-7, D-8); Shishmaref (A-2, A-3, A-4, B-1, B-2, B-3); Solomon (B-2, B-3, B-6, C-1, C-2, C-3, C-4, C-5, C-6); St. Michael (A-2, A-3, A-4, A-5, A-6, B-1, B-2, C-1, C-2); Teller (A-2, A-3, A-4, B-3, B-4, B-5, B-6, C-6, C-7, D-4, D-5, D-6, D-8); Teshekpuk (D-1, D-2, D-3, D-4, D-5); Tyonek (A-1, A-2, A-3, A-4, B-1, B-2); Unalakleet (B-5, B-6, C-4, C-5, D-4); Valdez (A-7, A-8); Wainwright (A-5, A-6&7, B-2, B-3, B-4, B-5&6, C-